

REMARKS

The Office Action mailed June 13, 2003 has been received and reviewed. Claims 1-5 and 8-11 are pending. Claims 6, 7, 12 and 13 were previously cancelled. Claims 1-5 and 8-11 are rejected. Claims 1, 4, 8, 9 and 11 are amended. The Applicant submits that the claims are in condition for allowance for the reasons stated below.

Rejection Of Claims 1-5 and 8-11 Under 35 U.S.C. § 103

Claims 1-5 and 8-11 are rejected under 35 U.S.C. § 103 as being unpatentable over Becker (6,131,780) in view of Palmer, et al (GB 2233238). The Examiner states that Becker discloses in FIGS. 1 and 7 a bottle carrier device as claimed, but that Becker fails to disclose the engaging member being a self-adjusting elastomeric ring which, the Examiner states, is disclosed by Palmer. The Examiner contends that it would have been obvious to combine Palmer with Becker to obviate that which is claimed.

Amended claims 1 and 8 recite a bottle carrier device which requires a self-adjusting bottleneck-engaging ring member connected to a joining member and hook in a manner which assures positioning of a bottle in a vertical orientation when carried by the device. As noted by the Examiner, Becker fails to teach a self-adjusting bottleneck-engaging member. As previously argued, Palmer fails to teach a self-adjusting member which engages the neck of a bottle as claimed; rather, Palmer

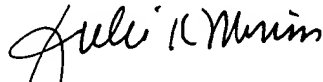
teaches a bottle retaining device which is specifically designed to engage the body of a bottle substantially below the neck of the bottle. Palmer specifically teaches and requires a retainer device having a rigid strip for holding two separate equal sized bands "which stretch over the container with its contents in the most efficient way to secure [the container] as shown (page 2, lines 15-26)." As shown, the container is secured by the retainer in a manner which orients the container horizontal to the hook since the point of attachment of the coiled cable (11) to the rigid strip of the retainer defines the center of gravity of the container placing it near the center of the container rather than at the neck of the container.

Palmer specifically teaches and illustrates a container retainer comprising a rigid strip that separates two rubber bands, and that the hook is joined to the retainer by a coiled cable (11) which secures to the rigid strip of the retainer (10). As noted by the Examiner, the test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). Therefore, combining the retainer as taught by Palmer with the device of Becker would direct one of skill in the art to replace the coiled cable (11) and hook of the Palmer device with the nylon webbing belt (14) and hook of Becker by attaching the webbing belt to the rigid strip of the Palmer retainer. The resulting combination would not be a device as claimed. Therefore, combination of the Becker and Palmer devices as suggested by the Examiner does not obviate claims 1-5 and 8-11.

CONCLUSION

The Applicant submits that claims 1-5 and 8-11 present patentable subject matter for the reasons stated above. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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Date: September 12, 2003